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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA
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9 JESSIE MATTHEW DIAZ,

Case No. 3:17-cv-00473-MMD-VPC

10 Petitioner,

ORDER

11 v.

12 TIMOTHY FILSON, *et al.*,

13 Respondents.

14 Petitioner, a Nevada prisoner, has submitted a petition for writ of habeas corpus
15 pursuant to 28 U.S.C. § 2254. ECF No. 1. Petitioner has failed to file an application to
16 proceed *in forma pauperis* or pay the filing fee. Accordingly, this matter has not been
17 properly commenced. 28 U.S.C. § 1915(a)(2) and Local Rules LSR1-1, 1-2.

18 Thus, the present action will be dismissed without prejudice to the filing of a habeas
19 petition pursuant to 28 U.S.C. § 2254 on the form required by this court in a new action
20 with either the \$5.00 filing fee or a completed application to proceed *in forma pauperis* on
21 the proper form with both an inmate account statement for the past six months and a
22 properly executed financial certificate.

23 It is therefore ordered that this action is dismissed without prejudice to the filing of
24 a petition in a new action with either the \$5.00 filing fee or a properly completed
25 application form to proceed *in forma pauperis*.

26 It is further ordered that a certificate of appealability is denied, as jurists of reason
27 would not find the court's dismissal of this improperly commenced action without prejudice
28 to be debatable or incorrect.

1 It is further ordered that the Clerk will send petitioner two copies each of an
2 application form to proceed *in forma pauperis* for incarcerated persons and a noncapital
3 Section 2254 habeas petition form, one copy of the instructions for each form, and a copy
4 of the papers that he submitted in this action.

5 It is further ordered that the Clerk will enter judgment accordingly and close this
6 case.

7 DATED THIS 29th day of August 2017.

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A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written over a horizontal line.

MIRANDA M. DU
UNITED STATES DISTRICT JUDGE